

D.P.U. 94-7C-1

Application of Nantucket Electric Company under the provisions of G.L. c. 164, § 94G, for approval by the Department of Public Utilities of the actual unit by unit and system performance of the Company, with respect to each target set forth in the Company's approved performance program for the period April 1993 through March 1994.

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FOR: NANTUCKET ELECTRIC COMPANY  
Petitioner

L. Scott Harshbarger, Attorney General  
By: Edward G. Bohlen  
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Intervenor

Jane Walton  
22 North Pasture Lane  
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Limited Participant

## ORDER ON OFFER OF SETTLEMENT

I. INTRODUCTION

On June 28, 1994, pursuant to G.L. c. 164, § 94G, Nantucket Electric Company ("Nantucket" or "Company") notified the Department of Public Utilities ("Department") of its intent to file a quarterly change to its fuel charge in conformance with its tariff, M.D.P.U. 193B, and to its qualifying facility power purchase rates in conformance with its Power Purchase Rate Schedule, M.D.P.U. 283, and with the Department's rules governing such rates. The Company requested that both these changes be effective for bills rendered pursuant to meter readings in the months of August, September, and October 1994. In addition, the Company submitted generating unit performance data for the April 1993 through March 1994 performance year.<sup>1</sup> The performance review was docketed as D.P.U. 94-7C-1.

Pursuant to notice duly issued, a public hearing was held at the Department's offices on March 16, 1995. The Attorney General of the Commonwealth ("Attorney General") intervened as of right, pursuant to G.L. c. 12, § 11E. The Department granted the petition for leave to intervene as a limited participant filed by Jane Walton, a residential customer of the Company. No other

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<sup>1</sup> In accordance with G.L. c. 164 § 94G, Nantucket is required to file annually with the Department the actual performance results of generating units in its resource portfolio. Typically, the Company provides these data concurrently with its July fuel charge filing.

petitions for leave to intervene were filed.

On February 14, 1995, the Company and the Attorney General filed a Joint Motion for Approval of an Offer of Settlement ("Motion") and an Offer of Settlement ("Settlement").

## II. SETTLEMENT AGREEMENT

The Settlement seeks to resolve all issues in this docket relating to the Company's generating unit performance review for the period from April 1, 1993 through March 31, 1994. The Settlement provides that the Company refund \$100,000 to customers in four equal monthly installments from April 1, 1995 through July 31, 1995, by reducing the quarterly fuel charge. The refund relates to the performance year outages of Nantucket's Unit 7.<sup>2</sup> According to the terms of the Settlement, the Department has until March 20, 1995 to approve the Settlement.

## III. ANALYSIS AND FINDINGS

In assessing the reasonableness of an offer of settlement, the Department must review the entire record as presented in the Company's filing and other record evidence to ensure that the settlement is consistent with Department precedent and the public interest.<sup>3</sup> See Western Massachusetts Electric Company,

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<sup>2</sup> The Company is to be reimbursed approximately \$100,000 by Mirrlees Blackstone Limited, the manufacturer of Unit 7.

<sup>3</sup> The Department, on its own motion, hereby enters into evidence the initial filing, the 96 responses to the information requests issued by the Department and the 25 responses to the information requests issued by the Attorney

D.P.U. 88-8C et al., at 15 (1994); Colonial Gas Company,  
D.P.U. 93-78, at 6 (1993); Barnstable Water Company,  
D.P.U. 91-189, at 4 (1992); Cambridge Electric Light Company,  
D.P.U. 89-109, at 5 (1989); Southbridge Water Supply Company,  
D.P.U. 89-25 (1989); Eastern Edison Company, D.P.U. 88-100, at 9  
(1989); Fall River Gas Company, D.P.U. 91-61, at 3 (1991);  
Western Massachusetts Electric Company, D.P.U. 92-13, at 7  
(1992).

In cases such as this, a settlement agreement among the parties, however well wrought, does not alter in any way the Department's jurisdiction nor does it absolve the Department of its statutory obligation to conclude its investigations with a finding that a just and reasonable outcome will result. See Boston Edison Company, D.P.U. 88-28/88-48/89-100 (1989). The Department has therefore, reviewed the proposed Settlement in light of that responsibility.

The Department has scrutinized the proposed Settlement, given the record evidence in this proceeding, and finds that the Settlement produces a just and reasonable result through the \$100,000 refund to ratepayers. Therefore, the Department finds that the proposed Settlement is consistent with Department precedent and the public interest. In accordance with the terms of the Settlement, our acceptance of the Settlement does not set

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General.

a precedent for future filings whether ultimately settled or adjudicated.

IV. ORDER

Accordingly, after due notice, hearing and consideration, it is

ORDERED: That the Joint Motion to Approve a Settlement Agreement filed on February 14, 1995 by the Attorney General and Nantucket Electric Company, be and hereby is granted.

By Order of the Department,

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Kenneth Gordon, Chairman

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Mary Clark Webster, Commissioner

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Janet Gail Besser, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).